IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION NO. 316 OF 2004

IN

SECOND APPEAL NO. 140 OF 2004

SHRI MARCELINA FERNANDES(SIN.DEC.) AND ORS., ...Applicants

Versus

SHRI AGNELO BASILIO LOURDES FERNANDES AND 3 ORS., ...Respondents

Mr. Sudesh Usgaonkar, Advocate for the appellants-applicants.

Mr. M. P. Almeida, Advocate for the respondents.

Coram:- R. M. LODHA, J.

Date:- 21st October, 2005

P.C.

Heard.

By the impugned Judgment and Decree dated 22.07.2004 passed by the Additional District Judge, South Goa, Margao, the appellants-applicants are required to hand over the suit property to the Decree Holders-respondents. It is true that the Decree Holders failed to prove mesne profits yet, in view of the fact that now despite the Decree passed by the Appeal Court during the pendency of the second appeal the appellants-applicants are desirous of retaining the possession, I am satisfied that the appellants-applicants should be directed to pay compensation to the Decree Holders at least from the date of the impugned Judgment and Decree dated 22.07.2004.

Hence, the order :

(i) The operation of the impugned Judgment and Decree dated 22.07.2004 passed by the Additional District Judge, South Goa, Margao in Regular Civil Appeal No.30/2003 shall remain stayed subject to the appellants-applicants depositing the compensation at the rate of Rs.1000/- per annum in the Court of the Civil Judge, Senior Division, at Quepem.

(ii) The deposit of the compensation per annum shall be made from the date of the Judgment and Decree dated 22.07.2004.

(iii) For the period from 22/07/2004 to 21/07/2005 and from 22/07/2005 to 21/07/2006, the amount shall be deposited within one month from today.

(iv) The payment for the subsequent years shall be made within one month of the expiry of the said period.

The civil application stands disposed of accordingly.

R. M. LODHA, J.

ssm.